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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,514	12/27/2001	Sidney E. Frank	4148-4002	8649

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MORGAN & FINNEGAN, L.L.P.
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New York, NY 10154-0053

EXAMINER

NGUYEN, JIMMY H

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 12/17/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,514

Applicant(s)

FRANK ET AL.

Examiner

Jimmy H. Nguyen

Art Unit

2673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 24-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 7. 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is made in response to applicant's RESPONSE TO ELECTION REQUIREMENT AND AMENDMENT, filed 10/14/2003 (entered into the file wrapper as Paper No. 9).

2. Applicant's election with traverse of Species I in Paper No. 9 is acknowledged. The traversal is on the ground(s) that searching all of the inventions would not be unduly burdensome and, in fact, an overlap of searching would be necessary to ensure a complete search for a proper examination on the merits of any one of the identified species of inventions. This is not found persuasive because (i) a search for features in the invention of Species I, e.g., a container and its structure, is not required in a search for features in the invention of Species II, and a search for features in the invention of Species II, e.g., a balloon and its structure, is not required in a search for features in the invention of Species I, thereby providing serious burden on the examiner, and (ii) as stated in the Election Requirement, should applicant traverse on the ground that the species are not patentably distinct, **applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case.** In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 20-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 12/16/2002 and 06/16/2003 and respectively entered as paper No. 6 and 7 are considered by the examiner except that the Blotky et al reference (US 6,084,526) and the Russell reference (US 5,339,548) listed in IDS filed on 06/16/2003 are crossed out because they are also cited in IDS filed on 12/16/2002.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature, "said image generation means housed in said second compartment", claim 24, lines 8-9, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

6. Claims 7-14 are objected to because of the following informalities: line 1, "The display system" should be changed to -- The system--, so as to be consistent with independent claim 1, line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2673

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 7, 9, 13-16 and 24-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura (USPN: 5,553,735 A, cited in IDS filed on 06/16/2003).

Regarding to these claims, as noting in figs. 2, 4, 6 and 8 and at col. 3, lines 39-52, Kimura discloses a system comprising a container (fig. 2 shows a container including elements 1 and 2), an interior compartment (a cavity 20, fig. 2), and a display system (a display 3 as shown in fig. 2, or a display including a plurality of lights 51 as shown in fig. 8, or a LCD, etc., see col. 3, lines 39-52) comprising a first display unit, a control unit (a flexible circuit 52, fig. 8, col. 3, lines 43-45) and a power unit (a power supply 50, fig. 8) such as a battery cell (col. 3, lines 44-45). Accordingly, the Kimura reference anticipates these claims.

9. Claims 24, 25 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller et al. (USPN: 6,172,948 B1, cited in IDS filed on 06/16/2003), hereinafter Keller.

Regarding to these claims, Keller discloses a system for displaying moving image, comprising a first object (a compact disc recorder 30, fig. 1, col. 5, lines 38-41) having a first compartment and a second compartment, a display unit (a digital graphic display device 46), and a power means (fig. 1, col. 7, lines 39-43). Accordingly, the Keller reference anticipates these claims.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2673

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-6, 10-12 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Blotky et al. (USPN: 6,084,526, cited in IDS filed on 12/16/2002), hereinafter Blotky.

Regarding to claims 2-5, 10, 11 and 17-19, as discussed above, Kimura discloses every thing except that Kimura does not disclose expressly the system comprising an audio/sound generation unit, a memory and a manual control unit.

However, Blotky discloses the system comprising an audio/sound generation unit comprising piezoelectric or ceramic speakers 58, a memory (46) and a manual control unit (56) (figs. 1,2, 4 and 5). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide an audio/sound generation unit, a memory and a manual control unit, in the system of Kimura, in view of the teaching in the Blotky reference, because this would provide a viewer multimedia presentations including moving images and sound, as taught by Blotky (col. 1, lines 42-45).

Regarding to claim 6, Kimura further teaches the sidewall having a second opening and a second display unit (fig. 2).

Regarding to claim 12, as discussed in the rejection to claim 10 above, the combination of Kimura and Blotky discloses all the claimed limitations except that the combination fails to teach the manual control unit comprising a remote control unit to allow usage of a remote control device, as claimed. However, Official Notice is taken that the manual control unit comprising a remote control unit to allow usage of a remote control device is well-known and

Art Unit: 2673

expected to those of ordinary skill in the art. Further, the benefits of using the remote control unit to allow the operator to control the remote device from a far distance is also well known and expected to those of ordinary skill in the art. It would have been obvious to have included a remote control unit in the manual control unit of Kimura in view of Blotky because this would allow the operator to control the remote device from a far distance.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Russell (USPN: 5,339,548 A, cited in IDS filed on 12/16/2002).

Regarding to claim 8, Kimura further teaches the display unit comprising LEDs, light bulbs, laser diodes, plasma display panel, LCD, CRT, or photoluminescent panels (col. 39-52). Accordingly, Kimura discloses all the claimed limitations except that Kimura does not disclose expressly the display device comprising at least one film and at least one electroluminescent lamp situated behind the image film. However, Russell discloses expressly a system comprising a display device comprising at least one film (a glass or plastic transparent material 24, fig. 4, col. 2, lines 37-40) and at least one electroluminescent lamp backlighting device 30, fig. 4) situated behind the image film. It would have been obvious to one of ordinary skill in the art to substitute the Russell display device for the Kimura display device because this would provide a low cost display device since there is no need a driving circuit for driving an image on a film.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is (703) 306-5422. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m..

Art Unit: 2673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached at (703) 305-4938.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

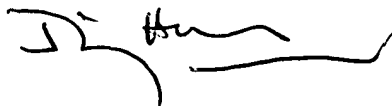
or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

JHN
December 14, 2003



Jimmy H. Nguyen
Examiner
Art Unit: 2673